

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Roland C. Anderson

vs.

General Motors Corp.

Civil Action No. 05-877-JJF

Motion Reargument
AND
Motion for Request



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Plaintiff contends that the court should enter default because Defendant has not filed an answer or other response to the complaint (within 20 days).

Defendant contends that entry of default is not warranted because service of process was procedurally deficient – states Terry Tyndall was not a person authorized to receive service on behalf of G.M. and did not learn of the proceeding until August 24, 2006, (court error to deny the motion). Reason the law states service of process upon insurance, the clerk shall provide the summons to the party or parties' attorney. Who shall be responsible for prompt service of the summons and a copy of the pleading. Also failure to provide a form of summons shall not be bases to reject the pleading for filing, Rule 4.1.

Terry Tyndall people systems administration is a party of G.M., Rule 4.1, and is responsible for prompt service.

Defendant filed an answer to Plaintiff's motion (D.I. 17.3) copy attached. Clearly shows G.M., Terry Tyndall's people systems administration received a copy of the complaint, Ex. B.

September 15, 2006, letter from Young, Conway, Stargatt E. Taylor, LLP states:

Dear Judge Farnan:

On behalf of the Defendant G.M., we file herewith as Ex. A the affidavit of Terry Tyndall; the individual to whom the U.S. Marshall delivered a copy of the complaint in this matter.

Your Honor clearly G.M. admits receiving the complaint. Your Honor on page 3 of your order states Mr. Tyndall asserts that he believed the documents served upon him pertain to a

pending equal employment opportunity commission complaint filed by the COM plaintiff separate from the instant action is misleading by Mr. Tyndall. Reason stated by their own letter dated September 15, 2006, which clearly states it was the complaint service by the U.S. Marshall

Your Honor clearly from the record Mr. Tyndall was indeed, was service with the complaint by their own admits letter dated September 15, 2006. That will show he is misleading the court and record will show willfulness or bad faith.

In sum the court overlooked September 15, 2006, letter to show Mr. Tyndall indeed received complaint service to Tyndall and is a party of G.M., 4.1 rule. Your Honor this is why I requested counsel to access me in these legal issues to prove established prejudice against me. I am not a lawyer and clearly need one. I request one but was denied. Your Honor how can one win without a *(ptt)* for justice?

Thank you,



Roland C. Anderson
113 Lloyd Street
Wilmington, DE 19804

cc: District Court of Delaware
The Honorable Judge Farnan
Michael Busenkell esq, of
Eckert Seamans
C. Herrin
Mellott LLC, Wilmington, DE
Attorney for Defendant

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September 15, 2006

VIA E-FILE

The Honorable Joseph J. Farnan, Jr.
United States District Court for the District of Delaware
844 N. King Street, Rm 4209
Lock Box 27
Wilmington, DE 19801

Re: Anderson v. General Motors,
C.A. No. 05-877-JJF

Dear Judge Farnan:

On behalf of Defendant General Motors, we file herewith as Exhibit A the Affidavit of Terry Tyndall, the individual to whom the U.S. Marshall delivered a copy of the Complaint in this matter. We are providing this document as additional support for our Response to Plaintiff's Motion for Default Judgment (D.I. 17), which we filed in response to Plaintiff's Motion for Default Judgment (D.I. 15).

In addition, we wish to notify the Court that we have been advised by the Clerk's office that no summons was ever issued in this case. Plaintiff has not complied with the requirements of Fed. R. Civ. P. 4(a) and (b) that a summons must be issued for each defendant to be served and must be served together with a copy of the complaint. The purpose of the summons is, of course, to put a defendant on notice that a response is required and to describe the consequences if no response is provided. No such notice was provided in this case.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Honorable Joseph J. Farnan, Jr.

September 15, 2006

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Plaintiff's failure to obtain and serve a summons with the complaint precludes the entry of default judgment. We respectfully request that Plaintiff's motion be denied.

Respectfully yours,

/s/ Teresa A. Cheek

Teresa A. Cheek

Del. Bar No. 2657

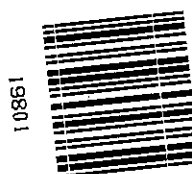
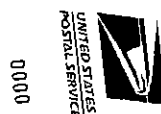
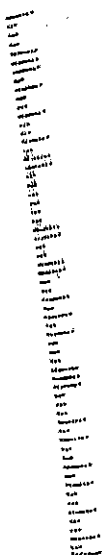
Attachment (Affidavit of Terry Tyndall)

cc: Clerk of Court (via EM/ECF)
Roland C. Anderson (via U.S. Mail, postage prepaid)
Michael Williams, Esquire (via e-mail)

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